

COURT MINUTES OF SENTENCING HEARING

UNITED STATES of AMERICA,

v.

CASE NO. 07-CR-212

MICHAEL NAGEL.

HON. J. P. STADTMUELLER PRESIDING

DATE: June 6, 2008

TIME SCHEDULED: 9:30 a.m.

COURT DEPUTY/CLERK: Melissa Burkland

TIME CALLED: 9:50 a.m.

COURT REPORTER: Kathy Malsom

TIME FINISHED: 10:29 a.m.

INTERPRETER: N/A

GOVERNMENT BY: Jonathan Koenig

DEFENDANT BY: Robert LeBell

PROBATION BY: Rex Morgan

Notes:

9:50 a.m. Appearances

9:50 Court comments to background of case

9:51 Defense counsel comments to the 06/07 version of the USSG objection; court comments that it is referring only to the facts

9:58 Court comments to the recently signed order denying the defendant's motion to dismiss on constitutional grounds

10:01 Probation recommended guidelines (2007)

27

I

70-87 mo (statutory minimum mandatory penalty of 120 months)

2-3 yr sup rel

10:03 Probation recommended guidelines (2006)

23

I

46-57 months

5 years Sup Rel

\$10,000.00 to \$100,000.00

\$100 special assessment

10:03 Court comments that if the court were cast in the role of imposing a guideline sentence, the has consistently utilized a rule of lenity; the court would have sentenced the defendant with the 2006 guidelines and will adopt the 2006 manual

10:08 Defense counsel comments to the court; requests the minimum sentence and minimum period of supervised release; requests the Oxford or Pekin camp facility. Defense counsel agrees with the forfeiture order; requests that he be allowed to contact his

family members that may be underage

- 10:12 Government comments to the court and responds to the court's order and comments
- 10:15 Defense counsel requests that the court make a finding that the defendant is not appropriate for civil commitment; court declines to do so
- 10:18 Court reads formal sentence
- 10:28 Defense counsel requests a business related exception to the defendant's computer use, so long as they be properly monitored; the court requests that defense counsel discuss that request with the probation office
- 10:29 Court stands in recess

FORMAL SENTENCE

Custody of Bureau of Prisons
120 months on Count 2

Supervised Release/Probation
5 years on Count 2

Fine

Terms: NONE

- ☒ Fine waived due to defendant's inability to pay.

Special Conditions of Supervised Release/Probation

- | | |
|--------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> report in 72 hours | <input type="checkbox"/> no new credit charges |
| <input checked="" type="checkbox"/> no firearms | <input type="checkbox"/> pay child support & arrearage |
| <input type="checkbox"/> report conviction to employer | <input type="checkbox"/> restitution: \$_____, at \$ ____/mo, 100%, no chng |
| <input checked="" type="checkbox"/> no illegally possess control. subst. | <input type="checkbox"/> cooperate with I.N.S. |
| <input type="checkbox"/> drug & alcohol testing | <input type="checkbox"/> cooperate with I.R.S. |
| <input type="checkbox"/> halfway house for _____ | <input type="checkbox"/> no tavern |
| <input checked="" type="checkbox"/> financial disclosure _____ | <input checked="" type="checkbox"/> other: computer restrictions |
| <input type="checkbox"/> community service: _____ hours | <input checked="" type="checkbox"/> other: DNA |
| <input type="checkbox"/> fine at \$____/mo, 100%, no chnge exemp. | <input type="checkbox"/> other: |

Special Assessment

\$100.00 on Count One, for a total special assessment of \$100.00

- ☒ To be paid immediately to the Clerk of Court, Room 362

Custody Status

- ☒ Defendant remanded to custody of U.S. Marshal.
- ☒ Defendant advised of right to appeal.
- ☒ Recommendations for BOP: placement at a camp at either Pekin, IL or Oxford, WI, consistent with the prerogatives of the BOP placements